

REMARKS

The Office examined claims 1-10 and rejected same. This paper requests entry of an amendment that would change claim 1 to even more distinctly claim the invention. No claims would be canceled, and no claims would be added. Thus the application would still include claims 1-10.

This paper is filed following a telephone interview with the Examiner on 27 April 2005, in which applicant's attorney contrasted the disclosure of Mulholland *et al.* (see below) with the application as in claim 1, and also discussed support for claim 10. No agreement was reached.

Applicant contends that the amendment should be entered because it is consistent with the requirements of 37 CFR 1.116, i.e. it does not touch the merits of the application (the change made to the independent claim can reasonably be regarded as making express what was heretofore implied by the existing language of claim 1); it does not raise any new issues; it does not require any further searching of prior art; and it places the application in condition for allowance. Further, the amendment places the claims in better form for consideration on appeal.

Objections to the specification

At section 2 of the Office action, the specification is still objected to in respect to the use of trademarks. With this paper, all trademarks appearing in the specification are now capitalized and also accompanied by the generic terminology wherever they appear.

Claim Rejections under 35 USC §112, first paragraph

At section 3 of the Office action, claim 10 is rejected under 35 USC §112, first paragraph, on the ground that "the claimed feature of the generic risk record being used 'to provide

initial values' for the profile risk record is not supported by the original disclosure."

As explained in the telephone interview, applicant respectfully submits that the paragraph of the application beginning at line 20 of page 21 makes clear that in a typical use of the invention a generic risk record is used for providing a (starting or new or initial) value for a "new" profile risk record. The application explains there that:

... the knowledge base [of generic risk records] organizes risks according to categories to aid in a user locating existing risks that the user might want to include in a new risk profile. ... A user can extract a risk from the knowledge base and either use these learned values or override the values with values of the user's own choosing. [Emphasis added.]

Applicant further respectfully submits that one skilled in the art would understand that the only reason for storing risk values as generic risk records in the knowledge base recited in claim 1 is that they serve as at least some basis for assigning values to risks in a new undertaking. Applicant regards claim 10 as a teaching claim in that it easier for a reader to understand that in claim 1 the generic risk records are averages of final values of risks arrived at in undertakings at various times, whereas the profile risk records are risk records for actual specific undertakings.

Applicant also respectfully refers the Examiner to the paragraph on page 8, beginning at line 25, which explains that:

... In creating a profile, a user of the system can identify risks and enter them into a profile, or can identify risks as being risks already included in a knowledge base maintained by the system and not associated with any particular profile, i.e. so called generic risks, or risks that can be derived from such generic risks. Each such addition to a profile, i.e. each new risk record added to a profile, includes a risk, its cause, a consequence, and a control. ... [Emphasis added.]

Also, see the paragraph at page 14, line 2:

It is anticipated that after continued use of the invention, users will have added new subjective values (with

corresponding typical values and ranges) and will also have adjusted the typical values and associated ranges for existing subjective values. The invention will refine the typical values and ranges based on an average of what everyone is using, so that the next time a user begins a project, the user begins with the new default values; existing values on profiles are not changed, however. Thus, if a user were to take a risk item from the knowledge base and add it to a profile, the values of the risk item would be based on the average values in the knowledge base. [Emphasis added.]

Applicant thus respectfully submits that the subject feature is fully supported by the application, and accordingly, applicant respectfully requests that the rejections under 35 USC §112, first paragraph, be reconsidered and withdrawn.

Claim Rejections under 35 USC §112, second paragraph

At section 4 of the Office action, claim 10 is rejected under 35 USC §112, second paragraph. The Examiner asks, "If the values from the generic record are provided for the profile record then what is there to update since the values for the profile record are the values from the generic record?"

Applicant respectfully points out that the application explains that the values of some fields of the generic risk records are averages over time of the typically final values of some fields of profile risk records for earlier undertakings/projects. The values of some fields of the generic risk records are then available to be used as starting values for corresponding fields in the profile risk records of later undertakings or projects. These later undertakings or projects then conclude with final values for the fields of the profile risk records, which can then be used to refine the values of the corresponding fields of the generic risk records, and so on. See e.g. the paragraph at page 20, line 21, and also page 11, lines 1-2, describing the use of generic risk records for providing values for new profile risk records; and for use of profile risk

records for refining values of generic risk records, see page 20, lines 1-11, which read (in part):

... [the invention] performs calculations using [a] typical (numerical) value ... that can be set by default, or ... that the user sets independent of the default value, or ... that is calculated by the invention to be an average of all other typical values for the same subjective value for the same risk in all (or a selected subset of all) profiles in the database. (It is the typical value ... that becomes more accurate, in terms of accounting for more experience, as the knowledge base learns over time.)

See also page 21, lines 28-31, which explains that:

the generic risks in the knowledge base have values for measuring fields (risk inherent likelihood, inherent cost of consequence and control effectiveness) that are averages of the values used in profiles of various users over time.

Also, see the description of Fig. 7 at page 27, and especially lines 11-29, which in explaining the use of the risk processor, which claim 1 recites as updating generic risk record values based on profile risk record values, reads (in part):

... A user commands the risk processor, from time to time, to update the measuring fields in the generic risk record stored in the knowledge base. ... The risk processor ... extracts from the data store 12 of contexts ... risk records with a date of last update that is later than the date of last update of the measuring fields of the generic risk record.

Applicant thus respectfully submits that the use of profile risk records for updating generic risk records and vice versa is satisfactorily explained, and accordingly, applicant respectfully requests that the rejections under 35 USC §112, second paragraph, be reconsidered and withdrawn.

Claim Rejections under 35 USC §102

At paragraph 8 of the Office action, claims 1, 2, 4, 5 and 9 and 10 are rejected under 35 USC §102(b) as being anticipated by Mulholland (article, "Risk Assessment and Construction Schedules," by B. Mulholland and J. Christian).

Claim 1 is the only independent claim.

In grounding the rejections, the Office action asserts that the hypercard knowledge base in Fig. 5 of Mulholland is encompassed by the knowledge base for maintaining a generic risk record including a plurality of different fields at least some of which have values based on experience gained over time, as recited in claim 1. As applicant's attorney explained in the telephone interview, the hypercard knowledge base of Mulholland is used only for risk identification, not risk assessment, i.e. not assigning values to risks, but instead merely identifying risks in a project. Page 8, right hand column, first paragraph, explains:

... The system [of Mulholland] includes the following three key features:

1. A hypercard information system for schedule risk identification. ... [Emphasis added.]

And at p. 10, col. 2, first full paragraph, Mulholland explains:

Classic risk analysis is undertaken in the following three iterative phases: (1) Risk identification; (2) risk measurement; and (3) risk management (Diekmann et al. 1988). ... Risk identification involves determining which variable are (sic) likely to affect the schedule. Risk measurement involves evaluating and quantifying the probability of the occurrence of a risk and the effects on the schedule (Fig. 2).

Thus, the hypercard knowledge base is used only for risk identification (which attempts merely to identify risks in a project) as opposed to risk measurement (which attempts to measure the identified risks), and so can hardly be asserted to be an example of a knowledge base, for maintaining a generic risk record including a plurality of fields at least some of which have values based on experience gained over time, as recited in claim 1. Thus also, it cannot fairly be said that Mulholland teaches or suggests a risk processor, for updating a field value of the generic risk record based on a corresponding field value in a profile risk record in a data store of profiles as in claim 1, since (again) the hypercard knowledge base is not intended to

provide measured values of risks, but only to help in identifying risks.

Accordingly, applicant respectfully requests that the rejections under 35 USC §102 of claims 1, 2, 4, 5 and 9 be reconsidered and withdrawn.

Claim Rejections under 35 USC §103

The claims 3 and 6-8 are rejected under 35 USC §103(a) as being unpatentable over Mulholland in view of a prior art admission by applicant(s).

Since claim 1 is believed allowable for the reasons given above, applicant respectfully requests that the rejections of other claims, being dependent on claim 1, also be reconsidered and withdrawn.

Conclusion

For all the foregoing reasons it is believed that all of the claims of the application are now in condition for allowance, and their passage to issue is earnestly solicited. Applicant's attorney urges the Examiner to call to discuss the present response if anything in the present response is unclear or unpersuasive.

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Date

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